

REMARKS

This responds to the Office Action mailed on November 30, 2006.

No claims are amended, canceled, or added; as a result, claims 1, 9-12, and 15-29 remain pending in this application.

§112 Rejection of the Claims

Claims 1, 9, 22 and 29 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “a content item” and “an identifier associated with the content item.” Claim 1 also recites an operation to determine “the identifier associated with the content item” from a portion of the content item. It is submitted that it is clear from the claim language that the antecedent basis for “the identifier associated with the content item” recited at line 6 is provided at line 4, where “an identifier associated with the content item” is recited. Therefore the “identifier associated with the content item” recited at line 6 refers to the “identifier associated with the content item” recited at line 4. Thus, the language of claim 1 is clear and not indefinite.

Referring to the language of the rejection, is submitted that claim 1 does not recite the terms “distinct identifier” or “new identifier.”

Claims 9, 22, and 29 are clear and not indefinite for the reasons articulated above.

It is respectfully requested that the rejection be withdrawn.

§102 Rejection of the Claims

Claims 1, 9-10, 15-19, 21-26 and 28 were rejected under 35 U.S.C. § 102(e) for anticipation by Levy et al. (U.S. 6,505,160).

Claim 1 recites “processing, **at a server system**, the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item.” As explained in the earlier communication to the USPTO (in the response to the Final Office Action mailed July 5, 2006), there is no indication in Levy that a decoding process to determine an identifier is ever being **performed at the server**. On the contrary, *the techniques in Levy rely on a server being provided with a content identifier, where the determining of the identifier is performed away from the server* (e.g., at a client system). (Levy, 4: 20-44). In response to the arguments, the Office action states, on page 3, that Levy teaches that the decoding process *forwards the extracted identifier* in a message containing additional information *to a server* at col. 4, lines 40-56. Thus, the Office action appears to agree with the applicant that the server in Levy is being provided with the identifier and, thus, there is no need in Levy to perform, **at the server**, any processing of the received portion of the content in order to “determine, from the received portion of the content item, the identifier associated with the content item.” Furthermore, as also discussed in the earlier communication, because in Levy an identifier associated with content is always being determined by a process that is performed away from a server, Levy, in fact, teaches away from processing, **at a server**, a portion of a content item in order to determine an identifier associated with the content.

The Office action, further in response to the earlier arguments put forth by the applicant, recites the portions of Levy describing the server performing a look up for related data (page 3, lines 8-15, quoting Levy 4: 40-56) and performing look-up operations to uniquely identify a media object (page 3, lines 16-23, quoting Levy 13: 50-67). It is submitted, that the look-up operations are performed in Levy “based on identifier,” which confirms the applicant’s assertion that, because the identifier is being made available to the server in Levy, Levy fails to disclose or suggest processing, “**at a server system, the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item,**” as recited in claim 1.

Continuing with the discussion of the rejection of claim 1, in order to show the feature of “the received portion of the content item being distinct from an identifier associated with the content item,” recited in claim 1, the Office action recites Levy disclosing the *context*

information that may relate to a user, the user's device, etc. (Levy, 4: 40-56 and 3: 24-64). Throughout the description, Levy discusses media content, identifiers associated with media content, and context information. Specifically, Levy explains that media *content* may be in the form of music and movies (Levy, 1: 34-35). Levy continues with an example of media content, in the form of an audio object that may have an associated *identifier* and describes techniques to associate an identifier with an audio object (Levy, 2: 22-33). Levy also discusses *context* information that pertains to the environment, in which media content may be utilized, e.g., the user's device, the details of the playback session, etc. (Levy, 4: 40-48). Thus, as explained in Levy, the terms "content," "identifier," and "context" cannot be used interchangeably, according to Levy. Thus, the discussion of *context* cited in the Office Action is not relevant to the feature of "the received portion of the **content item** being distinct from an identifier associated with the content item" recited in claim 1. It is submitted that Levy fails to disclose or suggest this feature.

Furthermore, in order to show the feature of "processing, **at a server system**, the received portion of the content item **to determine, from the received portion of the content item, the identifier associated with the content item**," recited in claim 1, the Office action recites Levy disclosing operations performed "based on the identifier" (Office action, page 5, citing Levy, 4: 40-56, 6: 39-54, and 12: 62 to 13: 15). It is submitted that, the operations of making determinations *based on an identifier* are distinct from the operations **to determine the identifier** itself. It is submitted that Levy fails to disclose or suggest the feature of "processing, **at a server system**, the received portion of the content item **to determine, from the received portion of the content item, the identifier associated with the content item**," recited in claim 1.

Because Levy fails to disclose or suggest each and every element of claim 1, and in fact teaches away from the features of claim 1, claim 1 and its dependent claim are patentable and should be allowed.

Claim 9 recites a server system "to receive a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item" and "to process the received portion of the content item to obtain determine, from the received portion of the content item, the identifier associated with the content item."

Thus, claim 9 and its dependent claims are patentable for at least the reasons articulated above with respect to claim 1.

Claim 11 recites “receiving, at a server system, a media object, the media object being distinct from an identifier for the media object; calculating a hash for the received media object” and “processing, at a server system, the media object to determine the identifier for the media object utilizing the calculated hash value.” Thus, claim 11 and its dependent claims are patentable for at least the reasons articulated above with respect to claim 1.

Claim 22 recites a machine-readable medium having stored thereon data representing sets of instructions which, when executed by a machine, cause the machine to “receive, at a server system, a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item a portion of the content item from a client system” and “process, at a server system, the received portion of the content to determine, from the received portion of the content item, the identifier associated with the content item.” Thus, claim 22 is patentable for at least the reasons articulated above with respect to claim 1.

§103 Rejection of the Claims

Claims 11-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levy et al. in view of Herz et al. (U.S. 20010014868).

Claims 20 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levy et al. in view of Herz et al.

The Office action correctly stated that Levy fails to disclose or suggest transmitting an offer to sell. The Office action cited Herz to show this feature. Herz is directed at a system for the automatic determination of customized prices and promotions (Herz, Title). Although Herz discloses offering a coupon for a related item responsive to a completion of a sale (Herz, P 267, 268, 270), Herz, whether considered separately or in combination with Levy, fails to disclose or suggest transmitting an electronic offer to sell **in response to the receiving of the media object utilizing the determined identifier**, as recited in claim 11.

Thus, because the combination of Levy and Herz fails to disclose or suggest each and every element of claim 11, claim 11 and its dependent claim 12 are patentable and should be allowed.

Claims 20 and 27 recite an offer to sell being a portion of the further information that is to be transmitted to the client system. Thus, claims 20 and 27 are patentable in view of the combination of Levy and Herz and should be allowed for at least the reasons articulated with respect to claim 11.

Furthermore, as discussed above, Levy, fails to disclose or suggest “receiving, at a server system, a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item” and “processing, at a server system, the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item,” as recited in claim 1. Levy also fails to disclose or suggest, as discussed above, a server system “to receive a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item” and “to process the received portion of the content item to obtain determine, from the received portion of the content item, the identifier associated with the content item,” as recited in claim 9.

Herz, whether considered separately or in combination with Levy, fails to disclose or suggest these features. Thus, claims 20 and 27 are patentable in view of the combination of Herz and Levy also by virtue of their being dependent on claims 1 and 9 respectively.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4041 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.


Respectfully submitted,

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Date March 30, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30 day of March 2007.

Dawn R. Shaw



Name

Signature